

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

LODSYS, LLC,

Plaintiff,

V.

CIVIL ACTION NO. 2:11-cv-283 (DF)

ADIDAS AMERICA INC.;
BBY SOLUTIONS, INC.;
BEST WESTERN INTERNATIONAL, INC.;
CVS CARMARK CORPORATION;
SAM'S WEST, INC.;
STANLEY, BLACK & DECKER, INC.;
THE CONTAINER STORE, INC.;
THE TEACHING COMPANY, LLC;
VEGAS.COM, LLC;
VITAMIN SHOPPE, INC.,

Defendants.

ORDER

Having considered Plaintiff Lodsys, LLC (“Lodsys”) and Defendants CVS Pharmacy, Inc. (“CVS”), Sam’s West, Inc. (“Sam’s West”), The Container Store, Inc. (“Container Store”), and Vegas.com, LLC’s (“Vegas.com”) Joint Motion to Dismiss Certain Claims With Prejudice based on the settlement of certain claims asserted by and between them, the Court finds that good cause exists for granting the motion. The Joint Motion to Dismiss Certain Claims With Prejudice is GRANTED. It is hereby

ORDERED, ADJUDGED AND DECREED that the following claims and counterclaims are hereby dismissed with prejudice:

- (a) Lodsys’s claim for “Infringement Of U.S. Patent No. 5,999,908” against CVS, and any and all other claims for infringement against CVS, to the extent such claims relate to products and/or services provided to CVS by OpinionLab;
- (b) CVS’s counterclaim for “Declaratory Judgment Of Non-Infringement Of The ‘908 Patent” against Lodsys;

- (c) CVS's counterclaim for "Declaratory Judgment Of Invalidity Of The '908 Patent" against Lodsys;
- (d) Lodsys's claim for "Infringement Of U.S. Patent No. 5,999,908" against Sam's West, and any and all other claims for infringement against Sam's West, to the extent such claims relate to products and/or services provided to Sam's West by OpinionLab, Inc.;
- (e) Sam's West's counterclaim for "Declaratory Judgment Of Non-Infringement Of The '908 Patent" against Lodsys;
- (f) Sam's West's counterclaim for "Declaratory Judgment Of Invalidity Of The '908 Patent" against Lodsys;
- (g) Lodsys's claim for "Infringement Of U.S. Patent No. 5,999,908" against Container Store, and any and all other claims for infringement against Container Store, to the extent such claims relate to products and/or services provided to Container Store by OpinionLab;
- (h) Container Store's counterclaim for "Declaratory Judgment Of Non-Infringement Of The '908 Patent" against Lodsys;
- (i) Container Store's counterclaim for "Declaratory Judgment Of Invalidity Of The '908 Patent" against Lodsys;
- (j) Lodsys's claim for "Infringement Of U.S. Patent No. 5,999,908" against Vegas.com, and any and all other claims for infringement against Vegas.com, to the extent such claims relate to products and/or services provided to Vegas.com by OpinionLab;
- (k) Vegas.com's counterclaim for "Declaratory Judgment Of Non-Infringement Of The '908 Patent" against Lodsys; and
- (l) Vegas.com's counterclaim for "Declaratory Judgment Of Invalidity Of The '908 Patent" against Lodsys.

It is further ORDERED that all costs, expenses, and attorneys' fees related to the above-listed claims and counterclaims are to be borne by the party that incurred them.

So ORDERED.

SIGNED this 20th day of October, 2011.

A handwritten signature in black ink, appearing to read "David Folsom", written over a horizontal line.

DAVID FOLSOM
UNITED STATES DISTRICT JUDGE